

## REMARKS/ARGUMENTS

Claim 1 has been rejected under 35 U.S.C. §102(b) as being anticipated by US 5,636,925 to Smiley. Claims 2-4 are cancelled herein. New claims 5-11 are added. New Claims 5 and 9 state that the starter nick is spaced from the first of the perforations a distance greater than a distance between the first perforation and a second, adjacent perforation. Support for this claim is provided in the specification at, for example, ¶0028. Claims 6 and 10 state that the starter nick is spaced from the first of the perforations a distance of at least 50 percent greater than a distance between the first perforation and a second, adjacent perforation. *Id.* Claims 7 and 11 state that the starter nick is spaced from the first of the perforations a distance greater than 0.38 inches. *Id.*

With regard to the art cited, Smiley describes a cutter blade designed for creating an easy opening spout in a heavy duty bag. The blade, best shown in Figure 2, has teeth (103) for forming the starter slit (80) in the bag (50). The slit-forming teeth (103) are closely spaced—more closely than the remaining individual perforation teeth (101). The distance (D) between adjacent perforation teeth (101) is approximately  $\frac{5}{32}$  of an inch. *See* col. 7, ln. 31. Consequently, the distance between adjacent perforations formed with the bag is likewise  $\frac{5}{32}$  of an inch. According to Figure 2 of Smiley, the distance between the slit forming teeth (103) and a first of the perforation teeth is also at least about  $\frac{5}{35}$  of an inch. As such, the distance between the starter slit (80) and first of the perforations formed with the bag is about  $\frac{5}{35}$  of an inch.

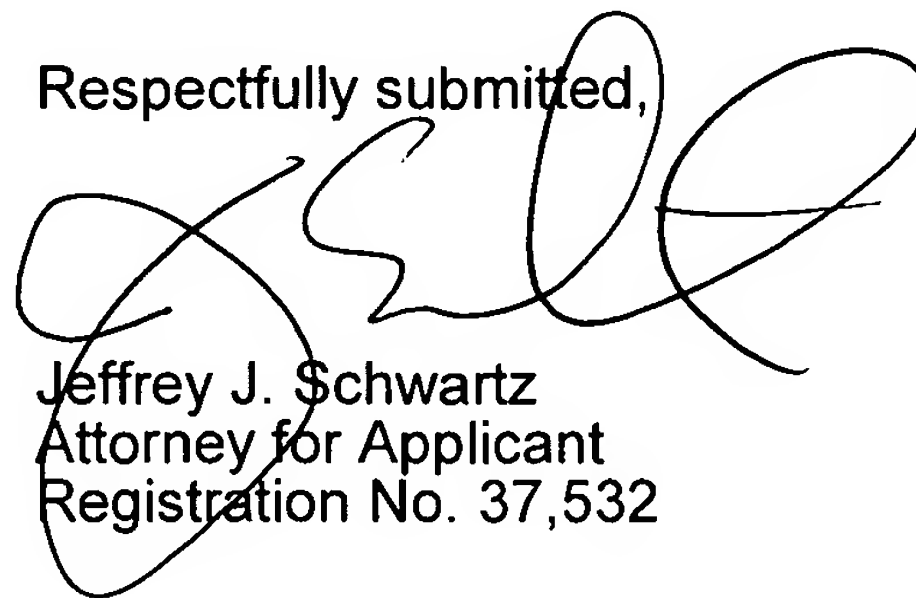
The heat sealing strip (60) of Smiley is formed using "any conventional heat sealing equipment used for providing and forming similar heat sealing strips." *See* col. 4, lns. 63-65. Using a cutter blade of Smiley, the distance between the slit forming teeth (103) and a first of the teeth (101) is insufficient to avoid damaging this seal strip when creating the perforated tear line—as the distance between these cutting elements is only about  $\frac{5}{32}$  of an inch. *Because of this, a heat sealing machine is used to create a "final heat sealing strip" intended to eliminate any portion of the starter slit extending into the plastic film in the*

region of the original heat sealing strip. See col. 6, Ins. 45-53. The method of the present claimed invention avoids this added step by intentionally bypassing the seal line of the bag to avoid damaging the seal line during formation of the easy-open corner portion. The method of Smiley actually *teaches away* from the present method by *reforming* the seal line after the easy-open corner portion is formed.

Dependant Claims 5-7 and 9-11 further distinguish the invention from the art cited by spacing the starter nick from the first of the perforations formed with the bag a distance greater than a distance between the first perforation and a second, adjacent perforation. In Smiley, for example, the distance between the slit-forming teeth (103) and a first of the perforation teeth (101) is *at least equal to* the spacing between adjacent teeth (101). As a result of this blade structure, Smiley does not and cannot intentionally bypass the seal line when forming the tear line of the bag.

For all these reasons discussed above, Applicant submits that all of the claims in the case are now in condition for allowance. Such action is therefore respectfully requested at an early date. If the Examiner believes that issues remain for discussion, he is invited to contact the undersigned at the telephone number indicated below.

Respectfully submitted,



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